



State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-3503 FAX (603) 271-2867



Laura Rinaldi, Trustee  
2000 Revocable Trust  
35 Yorkshire Rd  
Dover, MA 02030

Bob and Laura Rinaldi  
35 Yorkshire Rd  
Dover, MA 02030

RE: Wolfeboro, NH, Tax Map 244, Lot 1, Block 2

ADMINISTRATIVE ORDER  
No. WD 02-026

July 8, 2002

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Water Division to the 2000 Revocable Trust and/or Bob and Laura Rinaldi, pursuant to RSA 482-A:6. This Administrative Order is effective upon issuance.

**B. PARTIES**

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH 03301.
2. 2000 Revocable Trust is a trust having a mailing address of 35 Yorkshire Rd, Dover, MA 02030. The Trustee is Laura Rinaldi and wife of Robert Rinaldi.

Bob and Laura Rinaldi have a mailing address of 35 Yorkshire Rd, Dover, MA 02030

**C. STATEMENTS OF FACTS AND LAW**

1. Pursuant to RSA 482-A, the Department of Environmental Services ("DES") regulates dredging, filling, and construction in or on any bank, flat, marsh, wetland, or swamp in and adjacent to any waters of the state. Pursuant to RSA 482-A:11, I, the Commissioner of DES has adopted Wt 100 *et seq.* to implement this program.
2. RSA 482-A:14, III provides that failure, neglect or refusal to comply with RSA 482-A or rules adopted under that chapter, or an order or condition of a permit issued under RSA 482-A, and the misrepresentation by any person of a material fact made in connection with any activities regulated or prohibited by RSA 482-A shall be deemed violations of RSA 482-A.
3. Pursuant to RSA 483-B, the Comprehensive Shoreland Protection Act ("CSPA"), the Department of Environmental Services ("DES") regulates development activities in the protected shoreland zone established under the CSPA. Pursuant to RSA 483-B:17, the Commissioner of DES has adopted Env-Ws 1400 to implement this program.

4. From February, 2000 to June 2001 Bob and Laura Rinaldi ("the Rinaldis") were the owners of land located on Kingswood Road, Wolfeboro, NH with 443 feet of frontage on Lake Winnepesaukee, more particularly described on Wolfeboro Tax Map 244, Lot 1, Block 2 and recorded in Book 1850 on Page 305 ("the Property").

The Rinaldis placed the Property into trust, The 2000 Revocable Trust ("the Trust"), on June 12, 2001

6. Laura Rinaldi is trustee of the Trust.

7. On March 15, 2000, DES received a Standard Dredge and Fill Application ("the Application") from the Rinaldis for the construction of a permanent "U" shaped docking facility, perched beach and footpath access on the Property.

8. The Application included plans prepared by Lakeshore Construction on behalf of the Rinaldis.

9. On June 23, 2000, DES personnel inspected the Property during the permitting process and found the following:

- (a) The need for a permanent dock was not demonstrated per Wt. 402.05 (a) and (c); and
- (b) Access to the proposed docking facility could involve additional wetlands impacts.

10. Based on the June 23, 2000 inspection, DES sent a letter dated June 28, 2000 to Lakeshore Construction, the authorized agent, requesting the following specific information:

- (a) Provide documentation to meet the requirements for permitting a permanent docking structure, or revise the plans to propose a seasonal docking facility; and
- (b) Provide on a plan how the docking facility will be accessed from the beach. Whether you are intending to add steps or additional wetland impacts will be required for access.

11. On July 10, 2000, DES received revised plans, dated July 7, 2000, for the Property from Lakeshore Construction.

12. Based on the plans prepared and submitted by Lakeshore Construction, DES, on September 13, 2000, issued Permit # 2000-00443 ("the Permit") authorizing the Rinaldis to:

- Dredge and fill 520 sq. ft. of palustrine forested wetland for the construction of a 4 ft. by 130 ft. footpath to provide access to the upland shorefront;
- 2. Excavate a 435 sq. ft. area behind the undisturbed rocks along the shoreline for the construction of an 18 ft. by 20 ft. perched beach, with a 1 ft. wide wall surrounding the beach, and a 4 ft. wide stepped access to the water;
- 3. Dredge surface rocks from public submerged lands within a 24 sq. ft. area directly lakeward of the proposed steps to provide safe access to the water; and
- 4. Install two 6 ft. by 40 ft. seasonal hinged piers attached to a 5 ft. by 23.9 ft. concrete walkway located landward of the full lake elevation, on 443 ft. of shoreline frontage on Lake Winnepesaukee.

13. In addition, the Permit was subject to twelve Specific Conditions, including:

All work to be in accordance with the plan by Lakeshore Construction of Wolfeboro, Inc., dated

07/06/2000, as received by the Wetlands Bureau on July 10, 2000"; and  
"5. Seasonal piers shall be removed from the lake for the non-boating season."

14. On April 8, 2002, DES personnel inspected the Property and observed the following:

- (a) The footpath constructed to provide access to the upland shorefront was built in excess of the permitted dimensions;
- (b) The footpath as measured in the field consists of two sections, the first measures approximately 100 feet by 10 feet, the second section measures approximately 50 feet by 7 feet, covering approximately 1,350 square feet;
- (c) A 5-foot by 11-foot 11 inch connecting walkway was built over the water;
- (d) Connected to the walkway are two 6-foot by 40-foot hinged piers;
- (e) Each pier is connected to separate concrete blocks, located landward of normal high water, (504.32 feet above sea-level) as measured for Lake Winnepesaukee;
- (f) Each concrete pad measured approximately 6-feet by 4-feet;
- (g) There are no mechanisms located on the Property to facilitate removing the piers and connecting walkway from the waters of Lake Winnepesaukee for the non-boating season;
- (h) A stone laid patio measuring approximately 11 feet by 17 feet is located approximately 19 feet landward of normal high water as measured for Lake Winnepesaukee, covering approximately 187 square feet of area;
- (i) Fill was placed within jurisdictional wetlands along the north side of the footpath, measuring approximately 9 feet by 9 feet;
- (j) Two large rocks have been placed within jurisdictional wetlands adjacent to the 9-foot by 9-foot area of fill;
- (k) Fill has been placed within jurisdictional wetlands to extend the lawn area between wetland flags 1.25 and 1.26. The area measures approximately 50 feet by 3 feet;
- (l) Fill has been placed within jurisdictional wetlands to extend the lawn area between wetland flags 1.27 and 1.28. The area measures approximately 32 feet by 8 feet;
- (m) A section of lawn, measuring approximately 39 feet by 19 feet extends beyond the property line on the northerly edge of the Property onto land more particularly known in the town of Wolfboro as Tax Map 244, Lot 1, Block 3; owner of record is Donald D'Auteuil, Trustee, Second Frog Realty Trust; and
- (n) A pile of sand was potentially placed within jurisdictional wetlands measuring approximately 2-3 cubic yards.

15. RSA 482-A:3, I, prohibits the excavation, removal, filling, or construction of any structures in or adjacent to any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from DES.

16. Pursuant to RSA 482-A:6, IV, DES may issue an order to any person in violation of this chapter, a rule adopted under this chapter or any condition in a permit issued under this chapter to comply with this chapter, the rule or permit, and require such remedial measures as may be necessary.

17. Under Wt. 101.35, "fill" means any rock, soil, gravel, sand or other such material that has been deposited or caused to be deposited by human activity.

18. Under Wt. 101.36, "fill" means to place or deposit materials in or on a wetland, surface water body, bank or otherwise in or on an area within the jurisdiction of DES.

19. Under Wt. 101.71, "seasonal dock or seasonal structure" means a dock and any associated supports

designed to be completely removed from the water during the non-boating season and includes pipe docks or floating docks.

20. Under Wt. 101.88, "wetland" means an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas.

21. Under RSA 483-B:4, XXII, "structure" means anything built for the support, shelter or enclosure of persons, animals, goods, or property of any kind, as well as anything constructed or erected with a fixed location on or in the ground.

22. Under RSA 483-B:4, XVII, (a), "reference line" means the natural high water level as determined by the DES.

23. Based on the April 8, 2002 field inspection on the Property, DES personnel observed:

- (a) The footpath to provide access from the upland to the shoreline was constructed in excess of permitted conditions;
- (b) The docking facility was not constructed according to permitted conditions;
- (c) A stone laid patio was constructed within the CSPA setback from the reference line and in excess of the maximum allowable square footage;
- (d) Fill was placed within jurisdictional wetlands adjacent to the footpath and lawn areas; and
- (e) A sand pile has been placed within jurisdictional wetlands.

#### **D. DETERMINATION OF VIOLATIONS**

1. The Trust and the Rinaldis have violated RSA 482-A:3, I by filling approximately 1,100 square feet of palustrine forested wetlands without a permit from DES.
2. The Trust and the Rinaldis have violated RSA 482-A:6, IV by constructing a permanent docking facility in place of a permitted seasonal docking facility.
3. The Trust and the Rinaldis have violated Env-Ws 1405.03 (b) by constructing an accessory structure in excess of 150 square feet.
4. The Trust and the Rinaldis have violated Env-Ws 1405.04 (a) by constructing an accessory structure less than 20 feet from the reference line.

#### **E. ORDER**

Based on the above findings, DES hereby orders The Trust and the Rinaldis as follows:

1. Within 20 days of this Administrative Order, submit a restoration plan to DES for review and approval. Have the restoration plan prepared by a professional engineer or environmental consultant, and include provisions for removal of all fill placed in wetlands along the footpath and lawn areas, removal of the stone laid patio, and removal of the sand pile located by the lawn edge and footpath on the Property. Submit the following with the restoration plan:

- a. A plan with dimensions, drawn to scale, showing:

- i. Existing conditions, with all jurisdictional wetlands delineated, to include previous wetlands boundaries, all structures on the property and lake elevation at normal high water as measured for Lake Winnepesaukee (504.32); and
    - ii. Proposed conditions after reestablishing the jurisdictional areas;
  - b. A detailed description of the proposed means of erosion control (turbidity curtains, silt fence, hay bales, etc) and stabilization of the restoration area;
  - c. A detailed description of the proposed work sequence and successful monitoring for the restoration and revegetation of the wetlands located in the poorly drained soils areas described above and control of invasive species such as purple loosestrife (*Lythrum salicaria*) and common reed (*Phragmites australis*); and
  - d. A detailed description of the proposed construction sequence and methods for accomplishing restoration of the jurisdictional wetlands and anticipated restoration compliance date.
2. Retain a qualified professional engineer or environmental consultant to supervise the implementation of the restoration plan and to submit the restoration progress report.
  3. Implement the restoration plan only after receiving written approval and as conditioned by DES.
  4. Submit an After-the-Fact Permit Application pursuant to Wt 204.06, to retain the two concrete pads and connecting walkway for the docking facility, including details on how the two piers and connecting walkway can be removed for the non-boating season.
  5. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Mary Ann Tilton  
DES Water Division  
6 Hazen Drive  
PO Box 95  
Concord, NH 03302-0095  
Fax: (603) 271-6588  
e-mail: mtilton@des.state.nh.us

#### F. APPEAL

Any party aggrieved by this Order as it pertains to placing fill in jurisdictional wetlands or constructing a permanent docking facility in place of a seasonal facility may apply for reconsideration with respect to such matter determined in this action within 20 days from the date of the Order. A motion for rehearing must describe in detail each ground for the request. DES may grant a rehearing if in its opinion, good reason is provided in the motion. Filing an appeal or motion for reconsideration of the Order will not automatically relieve the Trust and the Rinaldis of the obligation to comply with the Order.

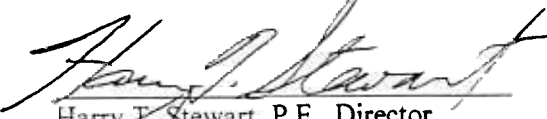
Any person aggrieved by this Order as it pertains to the Comprehensive Shoreline Protection Act, more particularly, construction of an accessory structure in excess of 150 square feet and located within the 20 foot setback from the reference line, may appeal the Order to the Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of

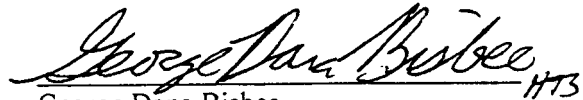
the rules are available from the DES Public Information Center at (603) 271-2975 or <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve The Trust and the Rinaldis of the obligation to comply with the Order.

#### G. OTHER PROVISIONS

Please note that RSA 482-A:13, RSA 482-A:14 and RSA 483-B: 18, provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. The Trust and the Rinaldis remain obligated to comply with all applicable requirements, in particular the hiring of a professional wetland scientist or environmental consultant to complete and successfully restore the jurisdictional wetlands, remove the stone patio and make provisions to have the docking facility removed for the non-boating season. DES will continue to monitor The Trust and the Rinaldi's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Carroll County Registry of Deeds so as to run with the land.

  
Harry T. Stewart, P.E., Director  
Water Division

  
George Dana Bisbee,  
Assistant Commissioner

Certified Mail/RRR: 7099 3400 0003 0688 9897

cc: Gretchen Rule, Administrator, DES Legal Unit ✓  
Public Information Officer, DES Public Information Center  
Jennifer Patterson, Senior Asst. Attorney General, EPB, NHDOJ  
Carroll County Registry of Deeds  
Wolfeboro Selectmen  
Wolfeboro Conservation Commission  
Wood and Clay, Inc.  
Wetlands File 2000-443